

REMARKS

This is in response to the Office Action dated February 17, 2004. Claims 1-9 and 16 are pending.

While applicant does not agree with the obviousness-type double patenting rejection, a terminal disclaimer regarding the '327 Patent has been filed herewith in order to render this issue moot and expedite prosecution.

Claim 1 stands rejected under 35 U.S.C. Section 103(a) as being allegedly unpatentable over Bracken in view of Kozmin. This Section 103(a) rejection is respectfully traversed for at least the following reasons.

Claim 1 requires "the ribbon of glass reaching the nip between the first and second rollers at a temperature of from about 1,900-2,400° F." The instant inventor has found that the use of such a temperature for the glass reaching the nip is particularly advantageous, especially given the sizes used for the claimed antique pattern (e.g., see paragraph [0034]). The cited art fails to disclose or suggest this aspect of claim 1, either alone or in the alleged combination.

Bracken fails to disclose or suggest this claimed temperature of the glass upon reaching the nip. The Office Action admits that Bracken fails to disclose or suggest this. Recognizing this flaw in Bracken, the Office Action cites Kozmin.

Kozmin relates to a particular type of glass composition that is to be crystallized. The glass has an unusually high CaO content, and is likely an entirely different glass than that used by Bracken since Bracken does not utilize crystallization. Kozmin's

temperatures are thus directed toward a glass that is specifically designed with high CaO content for crystallization (Bracken's glass is not so designed with high CaO content for crystallization). Thus, one of ordinary skill in the art would never have used Kozmin's temperatures in the system of Bracken, since the two references relates to entirely different types of glass (one designed with high CaO content for crystallization, and the other not).

Moreover, the 1200-1300 degree C temperature (i.e., 2192-2372 degrees F) mentioned by Kozmin at col. 3, line 64 that is relied upon by the Office Action is the temperature of the glass at the time it is *degassed* (i.e., not at the time it reaches the nip). After Kozmin's glass reaches this 1200-1300 degree C temperature, it falls over a lip and down into a pool over a *cooled* roller 7 (the pool is in contact with cooled roller 7, so that the pool effects cooling of material entering the same) – still not reaching the nip. It is only after the glass is cooled during this fall and in this pool, that it finally reaches the bottom of the pool and thus the claimed nip. It will be appreciated by those skilled in the art that by the time the glass reaches the bottom of this cooling pool and thus the nip, it clearly is at a temperature much less than that mentioned by Kozmin at col. 3, line 64 (especially given the cooling effect created by cooled roller 7). Accordingly, Kozmin fails to disclose or suggest the glass being at a temperature of from about 1,900-2,400° F when it reaches the nip. In Kozmin, the glass will be at a temperature less than this when it reaches the nip due to the fall over the lip and the cooling effect in the pool provided by the cooled roller 7. Thus, even if the references were combined as alleged in the Office

Action (which applicant believes would be incorrect in any event), the invention of claim 1 still would not be met.

In the final rejection, the Examiner states that "applicant merely alleges that the temperature of the glass would be less than 1900° C without providing any evidence or plausible reasoning for the argued assertion." First, applicant notes that the USPTO has the burden of proving a prima facie case of obviousness – the cited art has absolutely nothing which mentions the temperature of the glass reaching the nip in Kozmin. Speculation on the part of the Examiner is not sufficient to create a prima facie case of obviousness. Second, applicant has repeatedly stressed that roller 7 in Kozmin is a cooled roller designed to cool the glass in the pool above the same. This cooling effect imparted by the cooled roller (e.g., col. 3, lines 24-26) necessarily significantly cools the glass as explained by applicant. Thus, applicant has provided clear evidence that Kozmin fails to disclose or suggest the temperature required by claim 1 when the glass reaches the nip.

The rejection based on Brooke is similarly flawed, as this aspect of claim 1 is not disclosed or suggested by Brooke. The Examiner admits that Brooke fails to disclose or suggest the temperatures required in claim 1 (i.e., the Examiner admits that Brooke is flawed in a manner similar to Bracken). Recognizing this fundamental flaw in Brooke, the Examiner again cites Kozmin. However, as explained above, Kozmin is not properly combinable with Bracken (for the reasons discussed above with regard to Bracken), and also fails to disclose or suggest the claimed temperatures required by claim 1 as explained

above. Thus, the combination is incorrect, and even if the improper combination were made, the invention of claim 1 still would not be met.

Furthermore, claim 9 requires "the ribbon of glass reaching the nip between the first and second rollers at a temperature of from about 1,900-2,400° F; forming a pattern in at least one surface of the glass ribbon at the nip, by causing the pattern to be transferred from the at least one roller to the ribbon of glass; the patterned glass ribbon exiting the nip at a temperature of from about 1,100-1,600° F." The cited references fail to disclose or suggest each of the aforesaid underlined aspects of claim 9, either alone or in the alleged combination. Thus, even if the references were combined (which applicant believes would be incorrect as explained above), the invention of claim 9 still would not be met.

Claim 16 requires "a ribbon of glass exiting the furnace or melter and proceeding toward the nip, wherein the glass reaches the nip between the first and second rollers at a temperature of from about 2,100-2,200° F; forming an antique pattern in at least one surface of the glass ribbon at the nip, by causing the pattern to be transferred from the at least one roller to the ribbon of glass; the antique patterned glass ribbon exiting the nip at a temperature of from about 1,100-1,600° F." The cited references fail to disclose or suggest each of the aforesaid underlined aspects of claim 16, either alone or in the alleged combination. Thus, even if the references were combined (which applicant believes would be incorrect), the invention of claim 16 still would not be met.

BURNHAM

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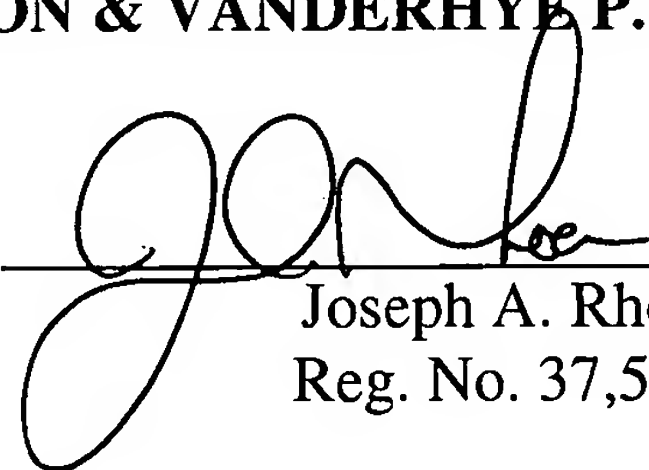
Still further, the cited references fail to disclose or suggest the antique pattern called for in claims 1, 9 and 16. The claimed temperature are especially advantageous in making such a pattern. Again, even the alleged combination fails to disclose or suggest this aspect of the pending claims.

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

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